

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
MAY 27, 2014 – 6:00 P.M.
NEW CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Fred L. Fitch, Mayor
Presiding

Also Present:
Bryan Long, City Manager
Frank V. Jensen, City Attorney
Traci Hushbeck, City Clerk
COL Glen A. Waters, Fort Sill Liaison

Mayor Fitch called the meeting to order at 6:10 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Kim Shahan followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:

Bob Morford, Ward One
Keith Jackson, Ward Two
Rosemary Bellino-Hall, Ward Three
Jay Burk, Ward Four
Dwight Tanner, Jr., Ward Five
Richard Zarle, Ward Six
Stanley Haywood, Ward Seven
Doug Wells, Ward Eight

ABSENT:

None.

AUDIENCE PARTICIPATION:

Anita Arnold, Charlie Christian International Music Festival, thanked the council, City of Lawton and the Lawton community for supporting this event. She encouraged everyone to attend next year.

Cindy Porter, Chairman of the Employee Advisory Committee, stated she speaks for all of the general employees from the City of Lawton. She stated police, fire and general employees are all City of Lawton employees and you can't have one without the other. She stated the council cannot get rid of employees just to make ends meet.

Jackson stated they just received their preliminary budget and he hopes that when they look at this budget they are able to find the money to pay general employees better.

Mayor Fitch stated the general employees will be addressed through the budget process for next fiscal year.

CONSENT AGENDA

Mayor Fitch stated items #2, #6, and #15 will be discussed separately. Jackson requested item #14 be discussed separately.

MOVED by Burk SECOND by Bellino-Hall to approve the consent agenda with the exception of items #2 #6, #14 and #15. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval: Nikki Montes (**Res. 14-66**) in the amount of \$574.63 and Leonard and Helen Payne (**Res. 14-67**) in the amount of \$750.00. Exhibits: Legal Opinions/Recommendations, Resolution No. 14-____ and Resolution No. 14-____.
2. Consider the following damage claims recommended for denial: Allan and Nina Dacci in the amount of \$17,787.00, William and Laura Swagger in the amount of \$800.00, and Christel Brooks in the amount of \$2,362.64. Exhibits: Legal Opinions/Recommendations.

William Swagger, claimant, stated they had rental property and the people that moved out tore up the house. He stated they filed a police report and during the investigation the detective was unable to confirm that the refrigerator he claimed was stolen was actually at the renter's home.

Kelea Fisher, Assistant City Attorney, stated staff has recommended denial of this claim. She stated Mr. Swagger is unhappy with the results of the investigation but that does not mean the detective was negligent. The detective did not have probable cause to make the arrest and seize the property. She stated she feels this is a landlord/tenant issue.

Haywood stated the officer would not have been able to enter the property unless he had a search warrant.

Fisher stated the officer was allowed in by the resident. He did not have probable cause to ask for a warrant or make an arrest.

Wells stated Mr. Swagger sent an email to all the council members. He questioned if the police report said anything about seeing the refrigerator with the correct serial number.

Fisher stated the detective did not say that he saw the serial number. He was going to contact Mr. Swagger to confirm that and that was the reason for the follow up.

Haywood stated this it tough, he wished they could have seen those serial numbers.

MOVED by Bellino-Hall SECOND by Burk to deny the damage claims of Allan and Nina Dacci in the amount of \$17,787.00, William and Laura Swagger in the amount of \$800.00, and Christel Brooks in the amount of \$2,362.64. AYE: Morford, Jackson, Bellino-Hall, Burk, Zarle, Wells. NAY: Tanner, Haywood. MOTION CARRIED.

3. Consider adopting a resolution approving the compromise settlement and making payment in the workers' compensation claim of Brian Shotts. Exhibits: **Res. 14-68**.
4. Consider approving an Outside Water Sales Contract with Kevin Hughes, and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Location Map. Contract is on file in the City Clerk's Office.
5. Consider approving an Outside Water Sales Contract with Milika Berg, and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Location Map. Contract is on file in the City Clerk's Office.
6. Consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, to implement an increase in Goodyear Tire and Rubber Company's water rate as set forth in Exhibit "A" of the Resolution, and establishing an effective date. Exhibits: Resolution 14-__ and Exhibit "A". **THIS ITEM WAS STRICKEN**
7. Consider accepting a settlement on a foreclosure law suit, in the Comanche County District Court between Kondaur Capital Corporation v. Rondell Bogel. Exhibits: None.
8. Consider accepting an engagement letter for technical accounting and consulting services with the firm of Crawford & Associates, P.C., and provide guidance to staff as appropriate. Exhibits: Engagement Letter with Crawford & Associates, P.C.
9. Consider approving the Third Amendment renewing the Sales Tax Rebate Agreement for Lawton Marketplace at 82nd and Quanah Parker Trailway, for fiscal year July 1, 2014–June 30, 2015, and authorize the Mayor and City Clerk to execute the amendment. Exhibits: Third Amendment to Sales Tax Rebate Agreement, Lawton Marketplace.
10. Consider authorizing a contract with CGI Communications, Inc. ("CGI") for development of a Community Video Program to be made available for use via the City's website homepage. Exhibits: 2014 Community Video Tour Agreement.
11. Consider entering into a Memorandum of Understanding with the Oklahoma Department of Wildlife Conservation state office for the purpose of expanding the Close to Home Fishing programs on the water bodies of: Lake Helen at Elmer Thomas Park, Liberty Lake at Liberty Park, and lakes at Skyline Park and James Henderson Park at Park Lane and authorize the Mayor and the City Clerk to execute the same. Exhibits: Memorandum of Understanding.
12. Consider and accept the professional engineering Report/Study of the Heat, Ventilation, Air Conditioning System of McMahon Memorial Auditorium conducted by C.H. Guernsey and Company. Exhibits: A copy of the Report/Study is on file in the City Clerk's office.

13. Consider accepting the maintenance bond and right-turn deceleration lane on East Gore Boulevard to serve Fort Sill Apache Casino and Hotel located at 2401 East Gore Boulevard. Exhibits: Location Map. Maintenance Bond on file in the City Clerk's office.
14. Consider approving the record plat for Lee Commercial Plaza located on the northeast corner of SW 38th Street and SW Lee Boulevard. Exhibits: Plat Map.

Jackson questioned how these guys would get to fill a flood zone with fill dirt.

Richard Rogalski, Community Services Director, stated they are actually in the flood fringe. By definition you are allowed to fill the fringe because it won't impact the properties upstream. You do have to go through a process with FEMA to get a floodplain use permit.

Jackson stated it wasn't that long ago that this was a flood zone. He wanted everyone to feel they were treated equally in this town because he has been associated with people who have had property in flood zones and they are not even allowed to put a spade of dirt in it and all of a sudden these people have filled it.

Rogalski stated in this case they are allowed to fill in the flood fringe area, out of the flood zone.

Jackson stated he is excited about beautifying that corner, but he wants to make sure that other people who have property in the flood zone need to go through a review process to make sure that the lines haven't changed.

MOVED by Jackson SECOND by Tanner to approve the record plat for Lee Commercial Plaza located on the northeast corner of SW 38th Street and SW Lee Boulevard. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

15. Consider approving copyright agreement in the amount of \$250.00 with Hal Leonard Corporation to authorize use of "Let the Rain Come Down" in stormwater quality public education advertising on KSWO, KLAJ, KMGZ, KBZQ and KZCD. Exhibits: Copyright agreement to use the song "Let the Rain Come Down" written by Roger Emerson.

Jerry Ihler, Public Works Director, stated as part of City's EPA mandated stormwater management program, public education is a component that is required as part of our program. Television and radio advertising is one of the methods that we use. In order to raise awareness of stormwater pollution, we have an advertisement where we will utilize a song "Let the Rain Come Down". Staff is asking council to enter into a copyright agreement which was set up for \$250 and we would be able to use it for 100 times on different stations. At the last minute an agreement was made that we could utilize the song as many times as we wanted over a five year period for \$300. Staff failed to revise the amount on the agenda item.

MOVED by Burk SECOND by Bellino-Hall to approve the copyright agreement in the amount of \$300.00. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

16. Consider authorizing Engineering Division to design the Mill & Overlay Project, NW Fort Sill Boulevard between NW Ferris Avenue and NW Gore Boulevard, Project #2014-04. Exhibits: None.
17. Consider approving an amendment to Nuisance Abatement Contract CL13-031 for East Side and extending the contract. Exhibits: Amendment to Nuisance Abatement Contract CL13-031 for East Side.
18. Consider approving an amendment to Nuisance Abatement Contract CL14-005 for West Side. Exhibits: Amendment to Nuisance Abatement Contract CL14-005 for West Side.
19. Consider awarding contract (CL14-046) Mowing & Litter – Areas M, N & Q – AREA M & Q to Teen Challenge of Lawton, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.
20. Consider awarding contract (CL14-046) Mowing & Litter – Areas M, N & Q – AREA N to UCI Services Group, Inc of Lawton, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.
21. Consider extending contract (CL12-032) Heavy Wrecker Service to Alford's Truck & Wrecker of Lawton, OK for an additional year. Exhibits: Department recommendation, Contract Extension Form, Price Sheet.
22. Consider awarding contract (CL14-042) Rock Hauling to Evans Transportation Services Inc of Lawton, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.
23. Consider awarding contract (CL14-043) Manhole Lining Materials, Items #1 and #2 to Quadex, Inc of North Little Rock, AR. And Item#3 to the Strong Company, Inc of Pine Bluff, AR. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.
24. Consider awarding contract (CL14-044) Lawton Arts and Entertainment Magazine to Fields Printing Company of Lawton, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.
25. Consider extending contract (RFPCL10-049) Banking Service to IBC Bank of Lawton, OK for an additional year. Exhibits: Department recommendation, Contract Extension Form, Price Sheet.
26. Consider awarding contract (CL14-047) Removal/Disposal of Sludge to ORI Environmental of Oklahoma City, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.

27. Consider extending contract (RFPCL13-040) Employee Assistance Program (EAP) Services to Deer Oaks EAP Services of San Antonio, TX for an additional year. Exhibits: Department recommendation, Contract Extension Form, Price Sheet.
28. Consider approving appointments to boards and commissions. Exhibits: None.

Building Development Appeal Board

Barry Ezerski
Real Estate Agent
1701 NW Cache Road
Lawton, Oklahoma 73507
07/26/2016

Joshua Dickson
Plumbing Contractor
7809 NW Brady Way
Lawton, Oklahoma
07/26/2016

David B. Jones
Electrical Contractor
2106 SW Monroe Avenue
Lawton, Oklahoma 73501
07/26/16

Ryan Herring
Commercial Property Owner
PO Box 3001
Lawton, Oklahoma 73502
7/26/16

Charlie Wright
Designer
702 SW 52nd Street
Lawton, Oklahoma 73505
07/26/16

Economic Development Authority

Ron Nance
1 SW 11th Street Suite 210
Lawton, Oklahoma 73501
06/27/21

Enhancement Trust Authority

Maria Shahan
1215 NW Lake Avenue
Lawton, Oklahoma 73507
6/30/17

Addie Smith
1508 SW Jefferson
Lawton, Oklahoma 73501
6/30/17

Barry Ezerski
3908 NW Elm Avenue
Lawton, Oklahoma 73505
6/30/17

Jay Burk – County
1415 NE Independence
Lawton, Oklahoma 73507
6/30/17

Jean Harbison
1306 NW Maple
Lawton, Oklahoma 73507
6/30/17

Museum Of The Great Plains Trust Authority

Ernest Godlove
Institute
726 NW 46th Street
Lawton Oklahoma 73505
6/30/17

Brady Wyatt
McMahon
5221 NW Cache Road
Lawton, Oklahoma 73505
6/30/17

Janice Parker Bell
At Large
246 NW Paint Road
Cache, Oklahoma 73527
6/30/17

Diane Mullins
City of Lawton
2807 NE Coronado Blvd
Lawton, Oklahoma 73507 3320
6/30/17

Carolyn Anne Love
At Large
3507 NW Arlington Avenue
Lawton, Oklahoma 73505
06/30/17

Personnel Board

Ernest Godlove
726 NW 46th Street
Lawton Oklahoma 73505
06/30/2020

Traffic Commission

Johnny Owens
PO Box 181
Lawton Oklahoma 73502
07/26/17

29. Consider approval of payroll for the periods of May 12-25, 2014.

NEW BUSINESS ITEMS:

30. Hold a public hearing and consider approving a resolution amending the 2030 Land Use Plan from Residential/High Density to Commercial and an ordinance changing the zoning from F (Floodplain District) and R-1 (Single-Family Dwelling District) to C-5 (General Commercial District) zoning classification on property located at the northeast corner of SW 38th Street and Lee Boulevard. Exhibits: Resolution 14-___, Ordinance 14-___ with Site Plan, Location Map and Applications.

Rogalski stated this is the item that goes with the plat that was just discussed. This request is for an approximately 15 acre tract of land located at the northeast corner of SW 38th Street and Lee Boulevard. The zoning of the surrounding area is R-1 and C-5 to the north; C-4 (Tourist Commercial District) to the south; C-5, I-1 (Restricted Manufacturing and Warehouse District),

P-O (Professional Office District), and R-3 (Multiple-Family Dwelling District) to the east; and F and P-F (Public Facilities District) to the west. They have requested C-5 zoning due to some of the uses they had put here. Because this zoning request is adjacent to residential it does require a binding site plan. There is a portion of the property that they are holding out that will be developed at a later date. Because this is a binding site plan in order for that property to be developed it would have to come back for a site plan amendment process which involves two public hearings. Staff does feel this property is appropriate for C-5 zoning because it is on the corner of a major intersection and it is suitably buffered for any residential nearby.

On May 15, 2014, the City Planning Commission (CPC) held a public hearing on this request and voted 8 – 0 to recommend approval subject to the following:

1. The site plan being modified, if necessary, to meet the findings of the traffic study.
2. All road work affecting traffic on SW 38th Street and/or Lee Boulevard would be done between the hours of 9:00 p.m. and 6:00 a.m. and all barriers to traffic are removed and suitable precautions in place by 6:00 a.m. with no lane closures between the hours of 6:00 a.m. and 9:00 p.m. on weekdays.

Haywood questioned what stores were going into this development.

Rogalski stated the applicant has not publicized what stores are going in.

Wells stated that the commentary does not state if anyone showed up to the CPC meeting to speak against this rezoning. He stated that the next commentary does state this information. He requested that staff is consistent with this information.

Rogalski stated there were no calls or letters against this item.

PUBLIC HEARING OPENED.

H. McNeish, MVG Development, stated they are the developers for the project. He stated he is bound by a non-disclosure agreement so he is unable to name the stores at this time. He stated his client is enthusiastic about coming to Lawton to bring fresh groceries, household goods, pharmacy and the convenience of fuel in one stop. They will generate upwards of 95 employees plus the construction jobs that will come with it. He stated the site plan has been accurately explained with access from both Lee and 38th Street. They have appropriate buffers and they even go beyond the standard setbacks and they do break up the parking field with landscape. He stated he does want to address one of the conditions that the CPC placed in the recommendation regarding the roadway construction. He stated he would like to request a compromise. The bulk of the roadway improvements are on 38th Street in the median modifications. He stated he has more information since that CPC hearing and he feels it is important to recognize that there is an additional cost to working at night. It would be an additional \$2,000 per evening and they would have a minimum of five evenings the work would occur. They are requesting that instead of the restriction of no lane closures between the hours of 6:00 a.m. and 9:00 p.m. on weekdays, that it be applicable to the actual peak hours of traffic which would be 6:00 a.m. to 9:00 a.m. and then from 3:00 p.m. to 6:00 p.m.

Haywood questioned the estimated date of opening.

Mr. McNeish stated they should start construction within the 15-30 days and they turn the store over to the tenant no later than January 5, 2015 and they will open before the end of January 2015.

Tanner questioned if this amendment has to go back to the CPC.

Rogalski stated the CPC is a recommending body to the council and the council has the final authority on the zoning requests.

Morford questioned if the request to change the hours of the street closing was reasonable.

Rogalski stated the CPC made a similar recommendation on Sheridan and Cache Road. It is an improvement over the current situation where they can close it all day long.

Bellino-Hall stated she drives this area several times a day and this is a reasonable request. Mainly the traffic is on Lee, not 38th Street.

PUBLIC HEARING CLOSED.

MOVED by Tanner SECOND by Haywood to approve **Resolution 14-69** amending the restriction of road construction from the peak hours of 6:00 a.m. to 9:00 a.m. and 3:00 p.m. to 6:00 p.m. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

MOVED by Tanner SECOND by Haywood to adopt **Ordinance 14-14**, waive the reading of the ordinance, read the title only. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 14-14

An ordinance changing the zoning classification from the existing classification of F (Floodplain District) and R-1 (Single-Family Dwelling District) to C-5 (General Commercial District) zoning classification on the tract of land which is hereinafter more particularly described in Section One (1) hereof; approving the site plan attached as Exhibit A; and authorizing changes to be made upon the official zoning map in accordance with this ordinance.

31. Hold a public hearing and consider an ordinance closing a portion of the alley between Lots 3-5 and 6-10, Block 116, Trest's Subdivision, a replat of Lawton Heights Addition, located north of NW Cache Road behind Traders Market & Furniture Company addressed as 1511 NW Cache Road and consider accepting a public utility easement. Exhibits: Ordinance 14-___, Location Map, Responses from Utility Companies. Utility Easement on file in the City Clerk's Office.

Rogalski stated Traders Market & Furniture Company would like to close a portion of the alley between Lots 3-5 and 6-10, Block 116, Trest's Subdivision, a replat of Lawton Heights Addition, located north of NW Cache Road addressed as 1511 NW Cache Road. The applicant, Mike McKee, has requested to close this alley in order to cut down on foot traffic and for better security. They do not intent to build anything on this alley other than the fence and actually they are willing to grant a utility easement over the top but they want to close it to public access. Public Works does not have any utilities located within this alley and does not object to closing the alley as long as a utility easement through the alley is maintained. AT&T, PSO, and CenterPoint Energy have utilities located within this alley and do not object to closing the alley and maintaining a utility easement. However, they do object to having the alley fenced off. They feel this would not allow access for repairs or upgrades to their utilities. Staff has urged the applicant to discuss these concerns with the utility companies. Notice of public hearing was mailed to 26 property owners within 300 feet of the requested area on April 25, 2014, and notice was published in *The Lawton Constitution* on May 14, 2014. No objections to the closing of the alley have been received by area property owners.

Tanner stated this is a high crime area and there are people that just walk through the back of his building. He does not see that this is a problem with fencing this off and having utility access whenever they need it.

Bellino-Hall stated they are not putting anything on the easement, so just putting a gate in makes good sense.

PUBLIC HEARING OPENED.

Mike McKee, applicant, stated there is a drug and prostitution problem in that first mile of Cache Road. He stated there is a little issue with this gate but it will prevent the drug dealers from running up and down this alley all night and day. He stated they have drug and prostitution houses to the east and the west. The alley between is the ideal traffic point to go house to house and they work it all day and night. They specifically want to close the alley to public access. He has had conversations with PSO, AEP and AT&T who all have utilities and all understand the situation that he is not locking them out. They open the gate at 8 a.m. and close the gate at 6 p.m. and 99% of all the utility readings are during those business hours. He stated that CenterPoint does not want to put in writing that they can lock that off. He requested that the council allow them to lock this at night to help keep the foot traffic off his property and also help the property owners clean up that one mile of Cache Road.

PUBLIC HEARING CLOSED.

Jackson stated he does appreciate their efforts to help with the crime issue.

MOVED by Jackson SECOND by Bellino-Hall to adopt **Ordinance 14-15**, waive the reading of the ordinance, read the title only and accept a public utility easement. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 14-15

An ordinance closing a portion of the 16-foot alley specifically between Lots 3-5 and 6-10, of Block 116, Trest's Subdivision, a replat of Lawton Heights Addition.

32. Hold a public hearing and consider a resolution amending the 2030 Land Use Plan from Residential/Low Density to Commercial and an ordinance changing the zoning from R-1 (Single-Family Dwelling District) to C-1 (Local Commercial District) zoning classification on property located at 1502 – 1614 NW 67th Street. Exhibits: Resolution 14-__, Ordinance 14-__ with Site Plan, Location Map, Applications and Draft CPC Minutes.

Rogalski stated this request is for three tracts of land located on the west side of NW 67th Street approximately ¼ mile north of NW Cache Road. The property owners are Jan Spannagel, Maxine Ledford, and Herman Ledford. The request is considered speculative rezoning as there are no plans to develop the property at this time. The zoning of the surrounding area is R-1 to the north and west, C-1 to the south, and R-1 and R-2 to the east. The land use of the surrounding area is single-family residential to the north, east, and west and a martial arts studio to the south. The 2030 Land Use Plan designates these tracts as Residential/Low Density. The City Council has approved three rezoning requests to C-1 along this half-mile section on the west side of NW 67th Street during the past year. On April 24, 2014, the CPC held a public hearing on this request. During the public hearing one person spoke against the request, and one person spoke in favor. The CPC, by a vote of 7 – 0, recommended approval subject to including on the site plan a statement that modification to the site plan must follow the procedure of Section 18-1-1-114.1 of the Lawton City Code. The site plan submitted with the application shows the existing single-family homes. If this request is approved, the surrounding property owners would still have an opportunity to review the proposed site plan and uses and raise any objections at the public hearings before any development can occur on these tracts. Notice of public hearing was mailed on May 6, 2014, to 69 owners of property within 300 feet of the requested area, and proper notice was published in *The Lawton Constitution* on May 11, 2014.

Bellino-Hall stated that anyone that buys this property would have to understand it is the way it is right now and they would have to come back and present another site plan to be approved by council.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Zarle SECOND by Wells to approve **Resolution 14-70**. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

MOVED by Zarle SECOND by Haywood to adopt **Ordinance 14-16**, waive the reading of the ordinance, read the title only. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 14-16

An ordinance changing the zoning classification from the existing Classification of R-1 (Single-Family Dwelling District) to C-1 (Local Commercial District) zoning classification on the tract of land which is hereinafter more particularly described in section one (1) hereof; approving the site plan attached as exhibit A; and authorizing changes to be made upon the official zoning map in accordance with this ordinance.

33. Consider an appeal from Peter P. Domitrovich, Jr. and Ingrid W. Burmec, for Notice and Administrative Order for property located at 2807 NW 25th Street. Exhibits: Photo taken by the inspector on April 24, 2014, Notice & Administrative Order dated April 25, 2014 and Appeal to council dated May 5, 2014.

Rogalski stated a Notice and Administrative Order for a Tall Grass and Weeds violation (LCC 15-2-201 A) was sent to Mr. Peter Domitrovich, Jr. and his wife Ingrid W. Burmec on April 25, 2014 for the property located at 2807 NW 25th Street. The property was inspected on April 24, 2014 and found to be in violation (grass exceeded 12 inches). Mr. Domitrovich faxed an appeal to the City Clerk's office on May 3, 2015 and was stamped in on Monday, May 5, 2014. He stated the property has been mowed inside the easement but the easement still has tall grass and is still in violation.

Tanner stated he spoke to Mr. Domitrovich, who is elderly, on the phone and he was involved in an accident and both he and his wife were unable to mow the grass. He has remedied the majority of the problem but he is also worried about this going on his record and blemishing his name. He stated he will go over and mow the easement tomorrow.

MOVED by Tanner SECOND by Morford to grant the appeal. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

34. Consider adopting a City Council resolution to support an Oklahoma Affordable Housing Tax Credit (OAHTC) application by Huntley Witmer Development, LLC. to the Oklahoma Housing Finance Agency (OHFA) and authorize the Mayor and City Clerk to execute the document. Exhibits: Exhibit A: Resolution of Support.

Wells stated he would like to hear the executive session item before they discuss this item as a council.

Jackson stated there is a nuisance filed against these people.

Jensen stated his recommendation is to brief the council in executive session and then they can come back out and consider this if they need to. (See vote after item #36)

35. Consider approving an Ordinance pertaining to Telecommunications Towers amending Paragraph A, Section 6-8-1-804, Division 6-8-1, Article 6-8, Chapter 6, Lawton City Code, 2005, relating to placement and setback requirements, providing for severability, and establishing an effective date. Exhibits: Ordinance 14-__.

Jackson stated there has been a request by one of the utility companies to table this request.

MOVED by Jackson SECOND by Burk to table. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

ADDENDUM:

1. Discuss a 2015 sales tax proposal, and any variations thereof, pertaining to finance and taxation that would continue the one-half percent (0.5%) sales tax expiring December 31, 2014, and the three-eighths percent (0.375%) sales tax expiring June 30, 2015, by renewing both in the combined amount of seven-eighths of one percent (0.875%) for a period of eleven (11) years beginning January 1, 2015; with the purposes of the revenues derived from the renewed sales tax to include (1) school facility/grounds improvements and vehicles for the Lawton Public Schools, (2) capital improvements for the City of Lawton in the areas of public safety, roadway/bridge, water/sewer system, buildings/recreation and sidewalks, and (3) operating expenditures in the areas of police/fire personnel and abatement of dilapidated structures, with the requirement that all revenues and proceeds derived from the renewed tax be deposited and credited into the 2015 capital improvement/operational fund of the City in accordance with the provisions of state law, to be used solely for the purposes set forth in an implementing ordinance as approved by the voters.

Long stated from a staff perspective he feels this has covered all the necessary components they have looked for to include operations. The fact that funds would be freed up in general fund through the funding of police and fire and other ways would be a tremendous asset for our community.

Jackson stated there have been some last minutes changes. These discussions began in early March. At that time they thought about keeping it at a five year financed by the ½ cent city sales tax. With conversations they realized that the education system desperately needed part of this CIP program. They negotiated \$12.5 million out of the total \$25 million. This would bring in \$5 million a year for five years. At \$12.5 million they realized that the items the city would be able to accomplish would be very limited. They discussed extending it to eight years and bringing in the 3/8 cent tax that was to end in June 2015 and add that to the ½ cent for a total of 7/8th cent. That would bring in \$9.1 million per year. He stated at that time they realized there was nothing included for salaries and hiring of additional police officers. He stated to get everything they needed in there they were going to have to go to eleven years. He at first felt eleven years was too long, but it is not. The next CIP program comes up for discussion in the year 2019 so he believes the council will have plenty of time to react to any emergencies or issues that may come up between now and then. An eleven year program is not going to cause us problems. The issue of public safety was brought to the forefront. The public safety facility with police, court and jail amount to \$29,600,000 with an estimated financing and interest of \$2.3 million. There is also \$2 million to finish building our new proposed fire station #8. Not enough money was included in the last CIP program to finish that project. The next item is the demolition and hazard material mitigation at the existing police station. He stated fire station #1 has severe problems, so there is \$5 million to renovate and expand the bay. The next item is funding for additional police and fire personnel and compensation and adjustments. This is the most

important because it will pay our people more and recruit more officers. He stated under the road and bridge improvements there is \$4.5 million for the reconstruction of east Rogers Lane from I-44 to Garden Village Drive and \$5 million for West Gore Boulevard from 67th Street to 82nd Street. Our transportation commissioner is working towards acquiring matching money for both of these roadways, so we have to include these monies to expand these roads. He stated the next project is for demolition of Wayne Gilley City Hall and the annex. He stated they have to paint the water storage tanks and also replace the water system pumps and the water monitoring system as well as fund the water supply study. Next on the list is library and recreation improvements and he feels that \$808,000 is money well spent. They have \$2.3 million for spray park facilities, playground and fitness equipment, outdoor walking paths, walking trail lighting and restoring existing sports facilities. He stated to address Councilmember Haywood's request at the previous meeting, they included \$200,000 for a youth summer jobs program. They have also included \$1 million to address the sidewalks to make them ADA compliant. The last one is very sizeable, but it will provide Lawton Public Schools with \$12.5 million to continue the upgrades for facilities. The only other change since the last time they met was to include \$150,000 for neighborhood services to address dilapidated properties. This will set up the seed money for a revolving fund. He does not see how anyone can be opposed to anything that is on this list. This is a well thought out program that was discussed with the business community, educators and groups of three council members met several times to go over this list.

MOVED by Jackson to approve.

Motion died due to lack of second.

Wells suggested the Mayor appoint a four member council committee to come up with a program that the community as well as the council will support. He feels it is a mistake to put out a program that has divided support by the council. When he was appointed to sit on this committee he thought they would come up with \$12.5 million for school and \$12.5 million for public safety over five years. Unfortunately they got into building a wish list and he feels they made the list too big to get the support they need and they need to have more consultation. He likes the program that they came up with but it is awfully big. There is another CIP in four years, but after that they will have to wait eight years and he hates to lock in future councils into something and they don't know what the economy will be like that far out in advance. He feels they should split it and worry about public safety with the ½ cent sales tax and run the 3/8ths after the first of the year.

Mayor Fitch stated \$12.5 million for public safety will not address the issue. The ½ cent will raise \$25 million over five years.

Wells stated he is only talking about salaries and new personnel, he is not talking about anything else. They can look at the other things in the 2019 program or with the 3/8th sales tax next March.

Tanner stated he feels this is a workable plan and he does not disagree that the police, fire and general employees need raises, but how do they continue to pay when the CIP runs out. He suggested they look at bonuses. He questioned why they did not look at fixing up the old city

hall and using it for administrative offices and rehabbing the old city jail. He stated it is very important that the community support the school system, but he feels they could do better than the \$12.5 million. He stated that LATS requested \$2.6 million to buy seven new buses and he suggested they address that need.

Bellino-Hall stated everything on the list is needed but she hears the words react and last minute. They are talking about \$100 million but she feels they did not spend enough time to think it through. She questioned why they are pushing for an August ballot, and why not put it on in November. She feels they are moving too fast and they need more time. She cannot support putting this on an August ballot. They need to bring everyone together and have one big effort with everyone on the same sheet of music with transparency to the community. Then it will pass without any problems. She cannot support this as it stands.

Mayor Fitch stated he is not going to appoint a sub-committee. This should be decided by the entire council and they are going to get everyone to the table and everyone will have an opportunity to say what they want to say. He is tired of subcommittees and you think you have something done and something good and look what happens, like tonight. He stated the council will meet until they have something ironed out if they have to meet 24/7.

Jackson stated they asked Gary Bush to be in attendance tonight to speak about what they would lose if they wait until the November ballot.

Gary Bush, Public Finance Law Group, stated under the law you would have a 75 day notice period to the Oklahoma Tax Commission and if they renew that 1/2 cent in November, it would not start until April 1st. From a sales tax election point of view, you do not normally have your election on the general election date in November. Oklahoma City has all of their elections in December and they have not lost one in 35 years. The November election is probably the worse day you can pick in the opinion of most of the professionals.

Bellino-Hall questioned why that was.

Mr. Bush stated a lot of people vote in the November election and if they have not studied all the special ballots that might be on the election, they tend to vote no since they haven't studied it.

Bellino-Hall stated it has a better chance of passing if not many people vote.

Mr. Bush stated there are groups that pass them and groups that defeat them. It is not a science.

Haywood stated in Oklahoma City, the community came together, and that is what they need to do. If they need to meet five days a week, then that is what they need to do.

Jackson stated they did that.

Haywood questioned if the proposals were going to be separate.

Mayor Fitch stated this will be on one ballot.

Haywood suggested they put the public safety question separate.

Mayor Fitch stated the wages and salaries could pass but then they would still have a dilapidated structure that is seeping raw sewage and they will not be able to address any other things until 2019.

Wells stated if they just do the ½ cent public safety, they could vote on the 3/8th cent after the first of the year and it can take care of the other things.

Mayor Fitch stated you can't do that with a five year public safety.

Wells stated the five year public safety he mentioned is only for new people, equipment and wages. All the other stuff is capital improvements. He stated they are talking about the same amount of money that you will have per year under the five year plan as you have under the eleven year. It will be about \$2.6 million a year under the eleven year. It is not \$29 million all up front, it is spread over eleven years.

Mayor Fitch stated you are doing this for five years.

Wells stated the public safety tax could be extended.

Tanner stated this is Plan A and they can get this out there for a vote and in the mean time they can be planning for Plan B to go in November. He would like to see an increase for the schools, seven new buses for LATS and he feels they should offer bonuses instead of pay raises.

Chief Dewayne Burk, Lawton Fire Department, stated there is no perfect plan, but this plan creates a vision for the city of Lawton. It enables them to address budget problems that are current and also facility issues that are existing right now. He would like to see the council move forward with this plan. The school system has been involved since the beginning and is on board. They have staffing issues in that they have a new fire station but there was no funding for additional personnel. This addresses police officers and firefighter with their facilities and equipment. It will also help with retention and salary increases for general employees. He encouraged support from the council.

Chief James Smith, Lawton Police Department, stated the issues with the police department have been well documented. Their facility was built in 1964 and it has various issues. They need to move forward with a viable plan to fix these issues as soon as possible.

Bellino-Hall stated they are not denying any of these issues and she feels public safety is number one. She is concerned that they are putting eleven years on the back of the city and that is a long time. They need to look at this a little bit closer. She is concerned that there has been a lot of last minute changes and then all the sudden they are into eleven years. They want everyone on board with this and they need some transparency. Everything on there is important but they just need to tweak it a bit and they can take that time to do this.

Haywood stated they all need to sit down and discuss this. Three people cannot decide this for the council. They all need to decide the final analysis.

Tanner stated it is important to Fort Sill that they support the school system. He feels they need to take time. They can always bring back a second proposal.

Morford stated they need to get something together that can be passed and get it out there.

Burk stated that three people did not decide on this proposal. He sat on this committee and he worked very hard to do the public safety portion working with staff. Other council members were invited to come in and give input, some did and some didn't. No matter what they do, they are never going to have a perfect list, but this is a good list. The only way to get \$100 million to get all the things done is through an eleven year plan. They have been working on this issue since January and they waited to come forward with this plan until the public schools were able to pass their bond issue. He feels they need to decide how big they want the plan to be. If eleven years is too much, then they need to delete off the list. He does not like eleven years, but he doesn't know how they can get there. He does not want to lose the CIP projects for public safety, because they need to move forward. He believes it is a good plan and it will not hurt to meet another time. He cannot support a November ballot because that is lost money they will never get back.

Haywood stated they all need to meet collectively so they can get this straightened out.

Burk stated they need to hear from citizens and hear their concerns. The project list is expensive but it is our future.

Wells stated they worked hard to come up with a program but he is concerned that it is too long at eleven years. He stated it does not look like they have full council support and if you are going to take something to the people for a vote, you have to have a majority of the council supporting the program.

Jackson stated this plan addressed every single need the public gave them. He stated he wanted to be a part of this and he attended every meeting he could find, many times uninvited. Anyone up here could have been a part of it.

Mayor Fitch suggested 10 a.m. on Friday for a special meeting.

Tanner stated he did have a motion.

Mayor Fitch stated they are having a meeting Friday morning.

Tanner stated not if a majority vote on the motion.

MOVED by Tanner to add an additional \$2.5 million for Lawton Public Schools and \$2.6 million for new buses and build the public safety facility for \$27 million.

Jackson stated you are looking at twelve years now.

Tanner stated he would withdraw his motion.

FINANCE REPORT

Julie Magness, Finance Services Supervisor, presented the financial report for the period ending April 30, 2014. (On file in the City Manager's office)

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Jackson stated he thought that May 1st was the implementation of the promotion policy in the police department and now he is being told that for some reason it has been waived and we have deviated from the Fidelis report.

Long stated the guideline they put out was a staff guideline, it was not a Fidelis report guideline. He was approached by Chief Smith and the police union and asked if that date could be moved forward to January 1, 2015.

Jackson stated these officers work hard to take these tests to qualify and rank and then you waive the policy that the council mandates from the Fidelis investigation and all the sudden number four is chosen instead of number one. He has some concerns about this. Are we back to the good old boy hiring system? Now we have a disruption in the police department.

Mayor Fitch stated the whole process was started under the old system back in January and the tests are different under the new system.

Jackson stated the test is no different.

Chief Smith stated the officers tested under the old system. Everyone he talked with felt like they could not change the program in the middle of the process. They tested in January and February under the old system.

Jackson questioned if the test was different.

Chief Smith stated the test was not different but the procedure was different.

Jackson stated the procedure makes you want to pick number four instead of the guy who qualified number one?

Chief Smith stated the officers tested under a different system. The procedure is going to change for next year.

Wells stated the old procedure required them to get seven names alphabetical, not ranked, and then they would select one person for the promotion. With the new procedure was they would get three people and they would be ranked and they had to pick number one, although they could

pick one of the others with justification to the City Manager and he would approve that or not. What would have been wrong if the Chief had received seven names, all ranked, and he could pick any one he wanted but if he didn't pick number one you have to write a justification. What would have been wrong with that?

Chief Smith stated the issue is that the officers tested under a different program and they were tested with the understanding that this is the procedure and the selection process that they were going to receive.

Wells stated so the selection process is that a guy can sit at number one for two or three years and never be selected because the chief can select who he wants. What they said with the new procedure is that the chief can still get all those names but you have to select number one or justify why you don't.

Chief Smith stated he does not select them by himself. There is a committee. There is a process where all the commanders give their input and they sit down as a committee and make the selection. He stated he is not opposed to the new system, but the issue is that they are changing course in mid stream.

Burk stated they still have an active committee that has worked hard to get this done and for the City Manager to go around the back door and get this done without coming to the committee first was not right. There are some officers that don't like this and they are coming to the council. If the City Manager had not said this would start May 1st then there would not have been an issue. They told people this would change and now it has changed again without their knowledge. He expects to know what is going on and not be blindsided.

Wells stated the council agreed to a policy the manager said he was going to put out, which was May 1st and they told everyone and then all the sudden the manager decides to change that without letting them know or getting any input. The council now has to answer to those that are upset with the way it happened. The Chief has the right to hire whomever he wants, but he will have to justify it to the manager. He also felt blindsided that the change was made.

Chief Smith stated nothing was done underhanded or in secret. He spoke with the City Manager, the HR Director and the union. The union specifically was in favor of going through this procedure. They also felt that you cannot change the procedure in mid stream. He has tried to treat everyone fairly. No matter what decision he made, someone is going to be unhappy.

Jackson stated they spent a lot of money on the Fidelis investigation trying to answer the concerns of the police department. This council approved the policy changes in several areas and these were to be implemented. He is concerned that management does not understand this.

The Mayor and Council convened in executive session at 8:37 p.m. and reconvened in regular, open session at 9:11 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEM:

36. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending nuisance action involving Apple Run / Deer Park Apartments, and take appropriate action in open session. Exhibits: January 16, 2014 Public Nuisance Letter and May 12, 2014 Public Nuisance Letter with call log.

Jensen read the title of item #36.

MOVED by Morford SECOND by Wells to give the City Attorney the authority to file a lawsuit against the owners of the Apple Run / Deer Park Apartments and any other necessary party for the purpose of seeking an abatement of the ongoing public nuisance of the said apartments and due to the continuing criminal and other activities occurring on the property and with said lawsuit to be filed at the City Attorney's discretion based upon the owners progress or the lack of progress in abating the nuisance. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

Mayor Fitch stated they will now address item #34.

34. Consider adopting a City Council resolution to support an Oklahoma Affordable Housing Tax Credit (OAHTC) application by Huntley Witmer Development, LLC. to the Oklahoma Housing Finance Agency (OHFA) and authorize the Mayor and City Clerk to execute the document. Exhibits: Exhibit A: Resolution of Support.

MOVED by Burk SECOND by Morford to approve **Resolution 14-71** with the understanding that they are doing this with some reservation and will be making sure that they are going to pay close attention to the developments that are currently happening at those apartments. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

37. Pursuant to Section 307(B)(3), Title 25, Oklahoma Statutes, consider convening in executive session to discuss the proposed sale of approximately 50 ½ acres, collectively or by parcel, of City-owned real property in the vicinity of NW 67th Street and Rogers Lane, as authorized by Ordinance No. 11-07, and take appropriate action in open session. Exhibits: To be distributed in executive session

Jensen read the title of item #37.

MOVED by Wells SECOND by Burk to approve an amendment to the agreement for the purchase and sale of two parcels of city property situated at 67th Street and Rogers Lane whereby the purchase price to be paid by Anthony Properties Realty at closing on June 19, 2014 will be reduced from \$2,500,000 to \$2,131,892. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 9:16 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK